

Abstract

The aim of this theses is „The Right to a Fair Trial.“ I approach this topic both as a juridicial institute, where I describe it's content, and a philosophical - moral principle which should, in my opinion, run through the whole legal proceedings.

(Among other things), my personal experience in a civil legal proceeding drove me to write this theses. On account of this experience I started to ask myself whether everyone is really entitled to the right to a fair trial and if the principle is really functional and running through the whole legal process or it's just a theoretical concept, more or less executed in a legal process. Comparison as objective as possible of a fair trial concept to the real state of this right's protection is one of the main aims of the thesis. Not just a confrontation between vision and reality, but also a proposal of their converging.

In the first part of the theses I present a brief description of material and formal sources of information regarding the right to a fair trial from both the Czech and European point of view. In the second part I present a summary of works dealing with this topic in the Czech Republic which have been published so far. In the third part I theoretically elaborate partial principles of this right. In the fourth, and the last part of this thesis I present proposals (de lege ferenda) which emerged from findig of the drawbacks. Due to the extent of the theses (and with an aim to avoid possible extensive pithiness), I apply the right to a fair trial on the civil legal processing – the discovery process part.

Eventually I discovered more drawbacks than I have expected. On the other hand I also discovered a scope of protection - whether by the Constitutional Court or by the European Court - huge beyond expectation. Following these facts I believe we will manage to subsequently eliminate the drawbacks in the further development and correct a certain negative tendency in law precepts formation which sometimes does not distinguish between effectivity and efficiency of law and prefers quantity to quality.

In conclusion I set a presentation of possible drawback solutions for further positive development.